

this Court deems appropriate in excess of \$90 million, including lost profits, attorney's fees, interest and costs, and that the Court permanently enjoin NewEnergy from using any further use or disclosure of the "Energy Technology" information or disclosing it to third parties and grant such other relief as may be appropriate and just.

COUNT IV
(Breach of Contract)

185. Paragraphs 1 through 184 above are incorporated herein by reference.

186. The Joint Marketing Agreement was a valid enforceable contract.

187. Powerweb has complied with all of its obligations under the Joint Marketing Agreement.

188. NewEnergy has breached its obligations under the Joint Marketing Agreement by improperly disclosing Powerweb's Energy Technology information to third-parties and by using Powerweb's Energy Technology information for NewEnergy's own financial gain without Powerweb's prior written approval.

189. NewEnergy also has breached its obligations under the Joint Marketing Agreement by independently pursuing similar opportunities with other customers in the PJM and New York ISO territories.

190. Powerweb has suffered damages as a result of NewEnergy's breaches of the Joint Marketing Agreement.

WHEREFORE, Powerweb requests that judgment be entered in its favor against NewEnergy in an amount to be determined at trial, currently believed to be in excess of \$90 million, including lost profits, attorney's fees, interest and costs, and that

the Court permanently enjoin NewEnergy from any further use or disclosure of the Energy Technology information and grant such other relief as may be appropriate and just.

COUNT V

(Breach of Duty of Good Faith and Fair Dealing Against NewEnergy and CHCO)

~~177. Powerweb incorporates here by reference the allegations of paragraphs 1 through 176.~~

191. Paragraphs 1 through 190 above are incorporated herein by reference.

192. 178.—NewEnergy owed a duty to Powerweb to perform its obligations under the Confidentiality Agreement, the Letter Agreement, and the Joint-Venture Agreement and to conduct itself in accordance with the implied duty of good faith and fair dealing the Joint Marketing Agreement and to conduct itself in accordance with the implied duty of good faith and fair dealing.

~~179. CHCO owed a duty to Powerweb to perform its obligations under the Confidentiality Agreement and to conduct itself in accordance with the implied duty of good faith and fair dealing.~~

193. 180.—NewEnergy breached its duty of good faith and fair dealing to Powerweb by, among other things, using the Confidentiality Agreement to procure certain confidential, and proprietary information from Powerweb in order to design its own software system to compete with the Omni-Link System in the reserve capacity sales market in order to develop its own competing products and services and thereby deprive Powerweb of the intended benefits of its bargain.